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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,428	04/07/2000	Michel F Levesque M D	CEDAR-044526	1086

7590

03/12/2002

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EXAMINER

SCHMIDT, MARY M

ART UNIT

PAPER NUMBER

1635

DATE MAILED: 03/12/2002

1.6

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/545,428

Applicant(s)

LEVESQUE M D ET AL.

Examiner

Mary M. Schmidt

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 February 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 12 February 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-27.

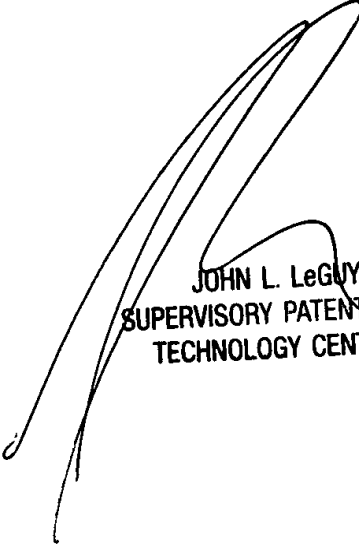
Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Continuation of 2. The claims are drawn to methods of transdifferentiating epidermal basal cells in to cells having one or more morphological, physiological and/or immunological features of a neural progenitor, neuronal or glial cell. The claimed cells thus read on a broad scope of possible types of cells recombinantly produced by the claimed method steps. The specification as filed teaches by way of example that the disclosed method steps render a particular set of physiological and morphological characteristics in the recombinantly produced cells. The support in the specification as filed and the art at the time the invention was made does not render the scope of the proposed claims as amended adequately described or enabled for the same reasons of record previously argued. Specifically, the specification as filed teaches that the cells isolated from a patients skin, when treated as described with the addition of growth factors and antisense to MSX1 and HES1 provide a particular set of characteristics considered neuronal. See page 28 of the specification which states that "morphological criteria were used to detect transdifferentiation of epidermal basal cells into neuronal cells. Cells with neurites, or processes, longer than three cell diameters (50 microns or longer), and expressing at least one neuronal marker (antigen), were counted as neurons." Since these were the types of cells taught as produced by the claimed methods, the specification as filed doesn't adequately provide support for making other types of neuronal cells by the claimed methods, namely neural progenitor or glial cells. As such, the entry of the claimed amendments would require further consideration and does not place the application further in condition for allowance .

Continuation of 3. Applicant's reply has overcome the following rejection(s): the Terminal Disclaimer filed via facsimile on February 25, 2002, overcomes the outstanding Double Patenting Issue.

Continuation of 5. does NOT place the application in condition for allowance because: For the reasons discussed above (under part 2 of the Advisory Action), the proposed claimed amendments do not further place the application in condition for allowance. The 35 U.S.C. 112, first paragraph, written description and scope of enablement issues are outstanding.



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